

April 26, 2010

William Clark
President
Association of Legal Professionals of San Jose
c/o 200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

Re: ALP Negotiations

Dear Bill:

City's Structural Deficit For 2010-2011

As you know, in November 2009, the City Council considered the City's structural budget deficit and decided that the City's ongoing total compensation costs must be reduced by 5.0%. The City's structural budget deficit for Fiscal Year 2010-2011 recently increased from \$96.4 million to \$116.2 million. Due to these changed circumstances, on Tuesday, March 23, 2010, the City Council approved the Mayor's Budget Message with an amendment directing a 10.0% reduction in compensation costs. According to the City Council's directive, a minimum of 5.0% of the total 10.0% reduction must be ongoing structural cost reductions, and the second 5.0% reduction in compensation costs could include one-time compensation savings that preserve services to the public.

ALP's Equitable Share of the Compensation Reductions

During our negotiation sessions, the City negotiating team explained that ALP's share of the 10.0% reduction is approximately \$911.15K. At several negotiation sessions, the City negotiating team provided ALP's negotiating team with updated salary and fringe benefits costs for the 2010-2011 base budget. In addition, at every negotiation session, the City provided additional data in response to ALP's requests for information.

ALP's Requests For Information

The City believes that it has provided all available relevant and necessary budget information requested by ALP. As the 2010-2011 Budget development progresses, however, the City will provide ALP with additional information and budget data.

During the April 20, 2010, negotiation session, the City and ALP discussed ALP's requests for information. The City's negotiation team sought to understand any remaining ALP requests for information by asking the ALP team questions. After our clarifying discussion, ALP handed the City a four-page proposal. In that April 20, 2010, proposal, ALP suggested that the City had not responded to ALP's requests for information by stating, "We acknowledge that our numbers are

estimates of savings, but this is due to the lack of the requested information at this stage of our discussions."

Although it is not entirely clear, ALP's statement may be referring to the City Manager's March 26, 2010, meeting at which she distributed copies of the Preliminary Budget Reduction Proposals to any bargaining unit representatives who attended. The meeting was not a City and ALP negotiation session. During this meeting with the City Manager, ALP requested the proposed budget cuts for the City Attorney's Office. The City Manager explained that the Preliminary Budget Reduction Proposals document did not include proposed reductions in Council Appointee Offices such as the City Attorney's Office. In other words, the information you requested on March 26, 2010, was not available.

During the April 5, 2010, negotiation session, the City negotiation team provided ALP with the available proposed budget reductions for the City Attorney's Office. This summary included a total reduction of \$3.68 million, which represents a 35.3% General Fund reduction to the City Attorney's Office. During the April 20, 2010, negotiation session, the City's negotiation team provided an update on the budget reductions for the City Attorney's Office. This included a reduction of \$2.5 million and an additional \$1.7 million target resulting from a reduction in funding from the Redevelopment Agency to the City. Copies of the City Attorney's Office proposals were provided.

The City's negotiation team has provided and will continue to provide available information regarding the City Manager's budget reduction proposals and the City Attorney's Office budget reduction proposals.

Scope of Bargaining

ALP's April 20, 2010, proposal to meet ALP's equitable share of the compensation reductions consisted of non-mandatory subjects that are outside the scope of bargaining. In its April 20, 2010, proposal, ALP proposed to reduce compensation costs by freezing five vacant positions in the City Attorney's Office. The City's decisions to reduce or eliminate services and any resulting decisions to layoff employees or leave positions vacant are not mandatory subjects of bargaining. In addition, two of the five positions listed in your proposal are not represented by ALP. ALP cannot meet its equitable share of the ongoing compensation reductions by attempting to negotiate reductions in another unit.

Even if the five vacant positions ALP proposed to freeze were in your bargaining unit and were mandatory subjects, ALP's proposal did not include any ongoing savings to reduce personnel costs by 5% and an additional 5% in one-time or ongoing personnel cost savings.

Sick Leave Payout Is A Mandatory Subject

In its April 20, 2010, proposal, ALP reiterated its position that sick leave payout is a vested benefit. Presumably, ALP intends to argue that sick leave payout is outside the scope of bargaining because it is vested. The City is confident that sick leave payout is not a vested benefit and is a mandatory subject of bargaining. We urge ALP to exchange proposals and counter proposals about sick leave payout.

ALP's Proposed No Compensation Reductions

Essentially, ALP proposed that the City maintain all ALP wages and benefits at the FY2008-2009 level with no compensation reductions. Your April 20, 2010, proposal stated, "All wages and benefits shall otherwise remain in current status (pre FY 09-10) for one year."

Because of the City's structural budget deficit, ongoing total compensation costs must be reduced. The City cannot agree to maintain all ALP wages and benefits at the FY 2008-2009 level with no reductions.

Furloughs, Shorter Work Weeks, and Alternative Hours

In its April 20, 2010, proposal, ALP incorrectly stated that the City has refused to negotiate about furloughs, shorter work weeks or alternative hours at City Hall. The City has not refused to negotiate about these subjects. In fact, ALP has not made any proposals about these subjects.

The City team stated at the negotiation table that at least 5.0% of the 10.0% reduction in compensation costs must be ongoing and structural reductions. If ALP wishes to negotiate about furloughs, a shorter workweek, and alternative hours, it must make a proposal.

City's Timeline For Completing Negotiations

As we have explained to you, the City faces a deadline of June 3, 2010, for completing negotiations or taking other actions toward balancing the budget for Fiscal Year 2010-2011. First, for each month negotiations extend into Fiscal Year 2010-2011 or the City fails to take action to reconcile its expenditures and revenues, the City will be forced to reduce or eliminate more services to our residents in Fiscal Year 2010-2011. Second, if the City is unable to reach agreement with the ALP bargaining unit, the City must make a timely decision to layoff employees. Third, the City needs time to make appropriate difficult public decisions to reconcile its expenditures and revenues for Fiscal Year 2010-2011.

The City is interested in reaching a voluntary settlement agreement with ALP for Fiscal Year 2010-2011. We hope that ALP will reconsider its initial proposal and provide proposals that achieve a 10% reduction in personnel costs, which will include 5% in ongoing savings and an additional 5% in one-time or ongoing savings.

Sincerely,



Aracely Rodriguez
Senior Executive Analyst

c: Carol Stevens, City's Labor Consultant